

REMARKS

Applicant is submitting this amendment in an earnest effort to bring this case to issue without delay.

Applicant wishes to reiterate his claim to the benefit of his German priority date of 23 December 2003 pursuant to the International Convention. Applicant has made a certified copy of German Patent Application 103 60 749.8 filed 23 December 2003 of record in PCT/EP2004/014312 filed 16 December 2004 of which the instant application is the US National Phase. The Examiner has already acknowledged Applicant's perfected right of priority.

Applicant has made some amendments to the specification to correct some minor inconsistencies and informalities. Applicant has added no new matter to the application. Applicant has amended the specification on page 11 to correct an error in the translation of the dimensions of the hollow microsphere particle size range to make it clear that the hollow microspheres in the paste have a particle size in the micron range and not in the millimeter range. Antecedent basis for the correction may be found inherently in the word microspheres on page 11, line 21 of the specification as well as in the PCT/EP 2004/014312 on page 8, third paragraph where the dimensions are clearly given as μm for microns and not mm for millimeters.

Applicant has made amendments to claims 15, 18, 20 and 26 and canceled claims 16, 17 and 23. Antecedent basis for the amendment to claim 18 to correct the dimensions of the hollow microsphere particle size from mm to μm may be found in the specification on page 11, line 14 and in the PCT/EP 2004/014312 on page 8, third paragraph where the dimensions are clearly given as μm for microns and not mm for millimeters.

Applicant has also amended the preamble of claim 15 to delete reference to the term "inorganic/organic binder." The Examiner has focused in particular on the wording "inorganic/organic binder" in claim 15, line 3. The Examiner has asked for clarification from the Applicant as to whether the term "inorganic/organic" means that the binder is a mixture of an inorganic and organic binder or means that the binder may be an inorganic binder or an organic binder. Applicant has reviewed the entire specification and points out that the binders are generally polysiloxane binders. See claim 21 See also page 12, lines 18 and 19, page 13, lines 21 to 24, page 14 , lines 14 and 15 of the specification. These latter passages indicate that the binders are inorganic binders or mixtures of inorganic binders. Polysiloxanes in this art are considered as inorganic binders even though polysiloxanes contain both carbon (organic) atoms and silicon (inorganic atoms). Thus Applicant has amended "inorganic/organic" to "inorganic" in claim 15, line 3.

Applicant has amended claim 20 to make the correction requested by the Examiner thereby removing the basis for the Examiner's objection to claim 20.

In view of the amendments presented above Applicant believes that the Examiner should no longer maintain a rejection of any claim in this application under 35 USC 112, second paragraph, as indefinite.

Applicant appreciates the Examiner's indication that claim 23 is potentially allowable provided that Applicant overcomes the rejection of claims 15 through 23 under 35 USC 112, second paragraph. Applicant has combined claims 15 and 23 into new claim 15 and has overcome the rejection of claims 15 through 23 as last presented under 35 USC 112, second paragraph. Now that Applicant has made these amendments to the claims, Applicant believes that claims 15 and 18 through 22 are in condition for allowance. None of the prior art of record teaches or fairly suggests the curable paste of claim 15 as now presented, which consists of the specified ingredients and the specified amounts.

Now that Applicant has amended claim 15 by combining that claim with claim 23, Applicant asks that the Examiner consider rejoining claims 24 and 25, the claims of Group II, with the claims of Group I. Claims 24 and 25 are both method of use claims,

dependent upon amended claim 15, and therefore include all of the limitation of amended claim 15. Now that Applicant has amended claim 15 to recite the paste with the specified ingredients and the specified amounts, this technical feature is common to both the claims of Group I and Group II. Accordingly under the PCT Rules Applicant asks that the Examiner combine claims 24 and 25 with the claims of Group I and allow these latter two claims as well.

Applicant also asks that the Examiner consider rejoining claims 26 through 30 now that the Applicant has amended independent claim 26 and claims 27 through 30 dependent upon claim 26 to recite all of the limitations in the curable paste that the Applicant now recites in claim 15. Applicant has amended claim 26 to state that the shaped part comprises a freely shapable paste, curable for drying at room temperature under normal pressure, comprising 10 to 80% small hollow microspheres, 3 to 20% by weight fibers and 3 to 25% by weight inorganic binders or a mixture of inorganic binders as active agent, and 0.01 to 1% by weight wetting agents, 0.01 to 2% anti-foaming agents and balance water. Claims 15 and 26 now include the same common technical feature, the paste with the specified ingredients and the specified amounts so that under the PCT Rules there is a common technical feature linking the claims of Group I, Group II and Group III.

Applicant believes that all claims now presented are in condition for allowance and a response to that effect is earnestly solicited.

K.F. Ross P.C.

/Jonathan Myers/

By: Jonathan Myers, 26,963
Attorney for Applicant

03 December 2009
5683 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: 718 884-6600
Fax: 718 601-1099
Email: email@kfrpc.com

Enclosure:
None.

.